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**FISCAL IMPACT STATEMENT**

**LS 7487**

**BILL NUMBER:** HB 1402

**NOTE PREPARED:** Jan 21, 2013

**BILL AMENDED:**

**SUBJECT:** Refinancing of Underwater Mortgages.

**FIRST AUTHOR:** Rep. Bartlett

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:**     **GENERAL**  
                              **X DEDICATED**  
                              **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill establishes the Underwater Mortgage Refinancing Program (UMR). An "underwater mortgage" is defined as a mortgage in which the outstanding balance owed by the debtor exceeds the market value of the mortgaged property, as determined by an appraisal. The bill requires the Department of Financial Institutions (DFI) to adopt guidelines to implement the program.

The UMR must be available on a voluntary basis to approved creditors. The bill provides that to qualify as an approved creditor for the program, a creditor must: (1) offer in Indiana to refinance qualifying underwater mortgages made by another creditor; and (2) maintain on file with the DFI a certification attesting to the creditor's compliance with specified UMR requirements.

The bill provides that for purposes of the program, a qualifying underwater mortgage must satisfy certain conditions. It provides that in determining whether an underwater mortgage satisfies the conditions, a creditor: (1) may rely on information provided, or representations made, by the debtor; and (2) is not liable for the negligence or malfeasance of the debtor or any other person in connection with the information provided or the representations made.

The bill provides the DFI's guidelines must allow an approved creditor to hold itself out as such in marketing materials or solicitations directed at Indiana customers. The bill requires an approved creditor to provide to any debtor who: (A) applies for a refinancing of a qualifying underwater mortgage; and (B) does not qualify for the refinancing based on the creditor's underwriting standards; a written statement stating the reasons the debtor did not qualify.

The bill provides that an approved creditor must submit periodic reports to the DFI concerning the mortgage products: (1) offered to; (2) applied for by; and (3) closed for; Indiana customers by the approved creditor during the applicable reporting period. Any personal information concerning a debtor that is reported to the DFI is confidential.

The bill requires the DFI to publish on their Internet web site a list of approved creditors that have a current and accurate program certification on file with the DFI. It also requires the DFI to remove a creditor's name from the list for certain violations.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** *Department of Financial Institutions (DFI):* This bill establishes the Underwater Mortgage Refinancing Program and requires the DFI to establish guidelines no later than June 1, 2013, to implement the program. The bill provides specific program requirements for certifying creditors to participate as approved creditors in the program; and criteria for a mortgage to be refinanced by an approved creditor under the program. Any additional costs incurred administering this program may be offset by revenue collected through fees the DFI may establish that would be imposed creditors who are certified or recertified to participate in the program.

**Explanation of State Revenues:** This bill allows the DFI to establish a creditor certification and recertification fee for participation in this program. The fee established by the DFI may not exceed the program's expenses. It is unknown much the fee will be for this program. However, a similar voluntary program administered by the DFI has a \$50 certification and renewal fee. All fee revenue is dedicated to the Financial Institutions Fund to defray the expenses of the DFI.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Financial Institutions.

**Local Agencies Affected:**

**Information Sources:**

**Fiscal Analyst:** Heath Holloway, 232-9867.